

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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Applicant's or agent's file reference R00579.70000	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/US 03/25068	International filing date (day/month/year) 11.08.2003	Priority date (day/month/year) 09.08.2002
International Patent Classification (IPC) or both national classification and IPC A47G7/02		
Applicant RAMIREZ, Steven W.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09.03.2004	Date of completion of this report 24.09.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Beugeling, G.L.H. Telephone No. +31 70 340-3284 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/25068**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-27 as originally filed

Drawings, Sheets

1/13-13/13 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 26

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 26 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	14, 19
	No: Claims	1-13, 15-18, 20-25, 27
Inventive step (IS)	Yes: Claims	19
	No: Claims	1-18, 20-25, 27
Industrial applicability (IA)	Yes: Claims	1-25, 27
	No: Claims	

2. Citations and explanations

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see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The term "second surface" in claim 26 is vague and leaves the reader in doubt as to the technical features of the support which are necessary to render the support adapted to support a second surface, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT. Moreover, it appears that the dependency of claim 26 should read "21-25".

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1) Reference is made to the following documents:

D1: EP 0 824 885 A,
D2: GB 990 705 A,
D3: EP 1 077 047 A,
D4: FR 1 271 112 A.

2) The subject-matter of claims 1-13, 15-18, 20-25, 27 is not novel (Article 33(2) PCT) for the following reasons.

2.1) D1 already discloses, see figures 6A, 6B and column 4, lines 2-12, a decorative display apparatus according to present claims 1, 2, 4-6, 8, 11, 12, 17, 21, 24, 25 and 27, in short (using the terms of present claim 1 but referring to D1): support (1, 9), interface (9, 20), magnet (31), magnetically attractable member (32), portion (9) of the interface, vase (1), clamp ((4), figure 3),
or alternatively according to present claims 1, 3-6, 9-12, 17, 21 and 23-25: support (20), interface (30, 31, 32), magnet (31), magnetically attractable member (32), vase (1), insulating material (30).

2.2) D2 already discloses, see page 1, lines 59-80 and figure 1, a decorative display apparatus according to present claims 1, 2, 4, 8, 11, 13, 15-18, 20, 21 and 25, in short (using the terms of present claim 1 but referring to D2): support (3, 4), interface (1-3), magnet (1), portion (3) of the interface, sculpting wire (page 1, line 75), item (flower shaped horticultural lamp).

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2.3) D3 already discloses, see column 11, lines 11-32 and figure 1, a decorative display apparatus according to present claims 1, 2, 4-6, 8-10, 12, 13, 15, 16 and 21, in short (using the terms of present claim 1 but referring to D3): support (4, 7), interface (2, 3), magnet (2), magnetically attractable member (3), portion (5) of the interface, test tube (7), sculpting wire (4), surface (11).

2.4) D4 already discloses, see figure 1, a decorative display apparatus according to present claims 1, 3-5, 7-9, 11, 12, 17, 21, 22 and 25, in short (using the terms of present claim 1 but referring to D4): support (2, 5), interface (3, 4a, 4b, 6), magnet (3), magnetically attractable member (6), surface (7), metallic plate (6), portion (3, 4a, 4b) of the interface, vase (5), pedestal (table (6)).

3) The feature of claim 14 is merely one of several straightforward possibilities from which a skilled person would select a material for the wire, in accordance with circumstances and without the exercise of inventive skill.

4) It appears that the dependencies of claims 17, 20, 27 should read respectively 13-16, 13-16 (2nd dependency), and "preceding".

5) The display apparatus of claim 19 differs from the one known from D2 in that the elongate sculpting wire (4) supports a plurality of separate culinary, horticultural or floral items with at least one item being held at a position on the wire that is spaced from another item held on the wire.

The display apparatus of claim 19 is therefore novel (Article 33(2) PCT).

The problem to be solved by the present difference may therefore be regarded as the selection of the number of items held on the wire.

The solution to this problem proposed in claim 19 of the present application is considered as involving an inventive step (Article 33(3) PCT) because it is not known from nor suggested by the available prior art.